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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,417	09/20/2005	Ioan-Mircea Corbean	71967	3189
23872	7590	06/29/2007	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			ROSS, DANA	
		ART UNIT	PAPER NUMBER	
		3722		
		MAIL DATE	DELIVERY MODE	
		06/29/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/550,417	CORBEAN ET AL.	
	Examiner Dana Ross	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 and 9-11 is/are rejected.
- 7) Claim(s) 7 and 8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 September 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/20/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

*Specification*

1. The abstract of the disclosure is objected to because it states “-Fig. 2-“. Applicant is required to delete the reference to the figure. Correction is required. See MPEP § 608.01(b).

*Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2, line 3 states “a tool-fitting aperture”. Claim 1, last line, has previously provided for “a tool-fitting aperture”. Claim 2 should be changed to read “the tool-fitting aperture”.

Claim 2, it is not clear if the magazine housing has the aperture or the bottom limb has the aperture as claimed in claim 1.

Claim 4, line 2, it is not clear what “it” refers to. It appears that line 2 should read “where the machine tool is a double-spindle machine tool”.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-6, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5,453,068 (Rutschle et al.).

Rutschle teaches a machine tool with a working area with a work carrier (see reference numbers 15 and 16 of figure 1); a tool-holder spindle 23 which accommodates a tool 24 that extends in the z-axis direction (see figure 1) and is displaceable in the x-y plane (see rail 17 in figure 1 for the x-axis, and rails 19 for the y-axis); an angular tool magazine 26 (see figure 5) which comprises an endless chain 78 that is circulatory drivable and provided with tool-holding fixture (see col. 9, lines 8-24, and lines 30-45, for example) with two limbs, a horizontal top limb and a bottom limb that extends downwards (yet horizontally) from the horizontal top limb (see figure 5) and wherein the chain 78 extend substantially through the top and bottom limbs (see figures 5, 6 and 7) and wherein a tool-fitting aperture 86 (see figure 6, for example) is provided in the bottom limb; a housing 25 (see figure and col. 9, lines 8-14, for example); a movable cover 87 (see col. 5, lines 49-54 and col. 13, lines 16-21, for example); a pick-up location and tool change arrangement (see figure 8).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rutschle.

Rutschle teaches all aspects of claim 1.

Rutschle teaches the use of one spindle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the single spindle to include a second spindle since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. In this instance, the well known use of multiple spindles would help increase productivity.

***Allowable Subject Matter***

8. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Examiner notes that the combination of limitations of Independent claims 1, 5, 6 and 7 is not found in the prior art, and no motivation would be found to modify the prior art as currently claimed to include the combination of limitations. Examiner further notes that the use of "two claws for holding a respective tool" is well known in the art. However the combination as discussed above is not. Furthermore, to modify Rutschle to include the "two claws for holding a

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respective tool would destroy the workability of the Rutschle invention and would require hindsight.

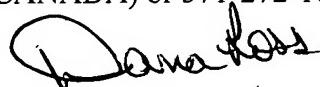
***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Ross whose telephone number is 571-272-4480. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dana Ross  
Primary Examiner  
Art Unit 3722

  
dmr